IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE.

INCOME TAX REFERENCE NO. 490 OF 1998..

The Commissioner of Income-tax,
Bombay City-II Bombay. .. Applicant,
vs.
Biddle Sawyer P.Ltd.
.. Respondent.

Shri A.S. Rao for the Applicant.
None for the respondent.

CORAM: V.C.DAGA &
J.P.DEVADHAR,JJ.
DATED: 22-3-2005.

P.C.

1. Heard learned Counsel for the applicant. The Tribunal has referred the question for the opinion of this Court reading as under:

> " Whether on the facts and in the circumstances of the case, the tribunal was correct in law in holding that the dis-allowance, in respect of payment to employee-directors should be computred in accordance with the provisions of section 40(c) of the Income-Tax Act, 1961 and not those of section 40A(5) of the said Act?"

2. The above question has already been answered by the Division Bench of this Court in the case of C.I.T. vs. Hico Products Pvt.Ltd. (No.1) (1993) 201 I.T.R. 567 (Bom.) in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Hico Products (P) Ltd. Reference, accordingly

stands disposed of with no order as to costs.